

CLIENT ALERT

GSA Will Insert FAR 52.223-99, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors in Multiple Award or Federal Supply Schedule Contracts for Products and Services

Oct.06.2021

Following President Biden's announcement of Executive Order 14042 ("EO") on September 9, 2021, several agencies have issued guidance on the EO's applicability to the contractor community, which we reported on [here](#). Further to GSA's September 30, 2021 [Class Deviation CD-2021-13](#), on October 6, 2021, GSA reiterated that a mass modification program for all GSA Schedule Contracts would begin on or around October 8, 2021, and no later than October 15, 2021.

This mass modification applies to GSA Schedule Contracts, regardless of whether they are for products, services, or both. The Class Deviation notes that the [Safer Federal Workforce Task Force's guidance](#) "strongly encourages agencies to incorporate the clause into contracts that are solely for products" and explains:

It is not administratively feasible to distinguish FSS contracts that are solely for products from FSS contracts that are primarily for products but also include ancillary-type services (e.g., installation, maintenance, training, ancillary services acquired via the Order-Level Materials SIN, etc.). Requiring the clause in all FSS contracts will simplify compliance tracking, vendor communication, and customer messaging efforts.

To that end, the GSA announcement states that:

The requirements in the Executive Order (EO) are being implemented across all government contracts via a Federal Acquisition Regulation (FAR) deviation. The clause in the FAR deviation will be incorporated into GSA contracts via a bilateral modification.

Notably, GSA contractors are required to accept the bilateral modifications with FAR 52.223-99 included.

We are continuing to monitor developments in this area. Our team is available to help companies navigate the many issues raised by the EO.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Lorraine M. Campos

Partner – Washington, D.C.
Phone: +1 202.624.2786
Email: lcampos@crowell.com

Adelicia R. Cliffe

Partner – Washington, D.C.
Phone: +1 202.624.2816
Email: acliffe@crowell.com

Thomas P. Gies

Partner – Washington, D.C.

Phone: +1 202.624.2690

Email: tgies@crowell.com

Laura J. Mitchell Baker

Counsel – Washington, D.C.

Phone: +1 202.624.2581

Email: lbaker@crowell.com

Michelle D. Coleman

Counsel – Washington, D.C.

Phone: +1 202.654.6708

Email: mcoleman@crowell.com

Katie Erno

Counsel – Washington, D.C.

Phone: +1 202.624.2926

Email: kerno@crowell.com

Alexandra Barbee-Garrett

Associate – Washington, D.C.

Phone: +1 202.508.8918

Email: abarbee-garrett@crowell.com

John Nakoneczny

Associate – Washington, D.C.

Phone: +1 202.624.2814

Email: jnakoneczny@crowell.com